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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 RUPFF A. HEINRICH,

9 Petitioner,

10 v.

11 WILLIAM PENALOZA, et al.,

12 Respondents.

Case No. C17-862-RAJ-JPD

REPORT AND RECOMMENDATION

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14 In this 28 U.S.C. § 2241 immigration habeas action, petitioner challenges his detention  
15 by U.S. Immigration and Customs Enforcement (“ICE”). The Government has filed a combined  
16 motion to dismiss and motion to consolidate this action with *Rupff Heinz v. Immigration and*  
17 *Customs Enforcement, et al.*, No. C17-761-RAJ-MAT (W.D. Wash.).<sup>1</sup> Dkt. 10. Petitioner did  
18 not oppose the motion.

19 Federal Rule of Civil Procedure 42(a) permits consolidation of “actions involving a  
20 common question of law or fact.” “To determine whether to consolidate, a court weighs the  
21 interest in judicial convenience against the potential for delay, confusion, and prejudice caused  
22 by consolidation.” *Paxonet Comm’ns, Inc. v. TransSwitch Corp.*, 303 F. Supp. 2d 1027, 1028  
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<sup>1</sup> Petitioner initiated the two actions under different names, but he used the same A-Number.

(N.D. Cal. 2003). “Consolidation is within the broad discretion of the district court.” *In re Adams Apple, Inc.*, 829 F.2d 1484, 1487 (9th Cir. 1987). Here, the C17-761-RAJ-MAT and C17-862-RAJ-JPD actions involve common questions of law and fact. In both suits, petitioner challenges his detention by ICE and seeks release. Because the Court will have to address the same factual and legal questions in both cases, judicial efficiency will be served by consolidating these actions. Accordingly, the Court recommends that the Government’s motion to consolidate, Dkt. 10, be GRANTED that this action be consolidated with Case No. C17-761-RAJ-MAT. The Court further recommends that ruling on the Government’s motion to dismiss be RESERVED until the cases are consolidated. A proposed order accompanies this Report and Recommendation.

Objections to this Report and Recommendation, if any, should be filed with the Clerk and served upon all parties to this suit by no later than **September 12, 2017**. Failure to file objections within the specified time may affect your right to appeal. Objections should be noted for consideration on the District Judge's motion calendar for the third Friday after they are filed. Responses to objections may be filed within **fourteen (14)** days after service of objections. If no timely objections are filed, the matter will be ready for consideration by the District Judge on **September 15, 2017**.

This Report and Recommendation is not an appealable order. Thus, a notice of appeal seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the assigned District Judge acts on this Report and Recommendation.

Dated this 22nd day of August, 2017.

*James P. Donohue*  
 JAMES P. DONOHUE  
 Chief United States Magistrate Judge